

1 RYAN KROMHOLZ & MANION, S.C.
2 DANIEL R. JOHNSON, WI Bar No. 1033981
3 djohnson@rkmiplaw.com
4 P.O. BOX 26618
Milwaukee, WI 53226-0618
TELEPHONE: (262) 783-1300
FACSIMILE: (262) 783-1211

E-Filed 11/22/2010

5 HANSON BRIDGETT LLP
6 STEPHEN B. PECK - 72214
7 speck@hansonbridgett.com
425 Market Street, 26th Floor
San Francisco, CA 94105
TELEPHONE: (415) 777-3200
8 FACSIMILE: (415) 541-9366

9 Attorneys for Defendant Bajer Design & Marketing, Inc.

10 **UNITED STATES DISTRICT COURT**
11 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN JOSE DIVISION**
13

14 SAN FRANCISCO TECHNOLOGY, INC.,

15 Plaintiff,

16 v.

17 THE GLAD PRODUCTS COMPANY,
18 BAJER DESIGN & MARKETING INC.,
19 BAYER CORPORATION, BRIGHT
IMAGE CORPORATION, CHURCH &
20 DWIGHT CO. INC., COLGATE-
PALMOLIVE COMPANY, COMBE
INCORPORATED, THE DIAL
21 CORPORATION, EXERGEN
CORPORATION, GLAXOSMITHKLINE
22 LLC, HI-TECH PHARMACAL CO. INC.,
JOHNSON PRODUCTS COMPANY
23 INC., MAYBELLINE LLC, MCNEIL-PPC
INC., MEDTECH PRODUCTS INC.,
24 PLAYTEX PRODUCTS INC., RECKITT
BENCKISER INC., ROCHE
25 DIAGNOSTICS CORPORATION,
SOFTSHEEN-CARSON LLC, SUN
26 PRODUCTS CORPORATION,
SUNSTAR AMERICAS INC.,

27 Defendants.
28

No. CV10-00966 JF PVT
ORDER APPROVING
**JOINT STIPULATION TO SEVER
DEFENDANT BAJER DESIGN &
MARKETING, INC.**

Complaint Filed: March 5, 2010

1 WHEREAS, Plaintiff San Francisco Technology Inc. ("SF Tech") filed its
 2 Complaint (Docket No. 1) on March 5, 2010 (the "Complaint") alleging that numerous
 3 defendants have falsely marked articles in violation of 35 U.S.C. § 292;

4 WHEREAS, Defendant Bajer Design & Marketing, Inc. ("Bajer") previously filed a
 5 Motion To Dismiss For Failure To State A Claim (the "Motion To Dismiss");

6 WHEREAS, on May 28, 2010, this Court entered a stipulation staying the hearing
 7 on Bajer's Motion To Dismiss and all proceedings as to Bajer and certain other
 8 defendants until the Federal Circuit entered a decision in *Stauffer v. Brooks Bros.*,
 9 Appeal Nos. 2009-1428, 2009-1430, 2009-1453 ("Stauffer") (D.I. 189) (the "Stipulated
 10 Stay");

11 WHEREAS, this Court's Order Re Pending Motions on July 19, 2010 (Docket No.
 12 315) ordered that "this action is hereby severed as to each and every separate
 13 defendant" (at 21:16–18), but did not instruct the Clerk to open a new case number as to
 14 Bajer (the "July Order");

15 WHEREAS, the Federal Circuit entered a decision in *Stauffer* on August 31, 2010,
 16 and, accordingly on October 14, 2010, this Court issued an Order lifting "the stay of
 17 litigation imposed by" the July Order, in, among others, Case No. 5:10-cv-00966 *San*
 18 *Francisco Technology Inc. v. Bajer Design & Marketing, Inc.* (D.I. 319) ("October Order");

19 WHEREAS, at the November 5, 2010 Case Management Conferences involving
 20 Plaintiff and other defendants from the Original Case, this Court ruled from the bench
 21 that all responsive motions in all of Plaintiff's cases still pending from the Original Case
 22 should be heard on Thursday, January 20, 2011 at 1:30 p.m., and that the Local Rules'
 23 normal 35-day briefing schedule shall apply;

24 THEREFORE, for the avoidance of doubt, the Parties, by and through their
 25 respective counsel of record, hereby stipulate and agree as follows:

26 1. The Complaint against Bajer will be formally severed into a separate
 27 action, and will be assigned a new case number for the matter *San Francisco*
 28 *Technology Inc. v. Bajer Design & Marketing, Inc.*

2. The October Order lifts the Stipulated Stay as to Bajer.

3. Bajer's responsive pleadings are due no later than December 1, 2010.

Dated: November 22, 2010


THE HONORABLE JEREMIAH FOGEL
United States District Court Judge

DATED: November 11, 2010

Respectfully submitted,

/s/ Daniel H. Fingerman (with permission)

Daniel H. Fingerman
MOUNT & STOELKER, P.C.
333 West San Carlos Street, Suite 1650
San Jose CA 95110
Telephone: (408) 279-7000
Facsimile: (408) 998-1473

Counsel for Plaintiff
San Francisco Technology Inc.

/s/ Daniel R. Johnson (with permission)

DANIEL R. JOHNSON
RYAN KROMHOLZ & MANION, S.C.
P.O. BOX 26618
Milwaukee, WI 53226-0618
Telephone: (262) 783-1300
Facsimile: (262) 783-1211

Counsel for Defendant Bajer Design &
Marketing, Inc.

Certificate of Service

The undersigned certifies that on November 11, 2010, the foregoing document was filed with the Clerk of the U.S. District Court for the Northern District of California, using the court's electronic filing system (ECF), in compliance with Civil L.R. 5-4 and General Order 45. The ECF system serves a "Notice of Electronic Filing" to all parties and counsel who have appeared in this action, who have consented under Civil L.R. 5-5 and General Order 45 to accept that Notice as service of this document.

Date: November 11, 2010



Yvonne M. Pete